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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,986	09/26/2000	Henning Vollert	02481.1699	3891

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EXAMINER

HANDY, DWAYNE K

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/646,986

Applicant(s)

Vollert

Examiner
Dwayne K. Handy

Art Unit
1743



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Sep 26, 2000

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 5-13 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 5-13 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4

20) ☐ Other:

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 5-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Pham et al. (6,171,780). Pham ('780) teaches a low fluorescence platform which contains a large number of miniaturized wells for assaying compounds. The platform is best shown in Figures 1 and 2, and

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described in columns 10-15. The platform is provided in a standard microtitre plate footprint (col. 10, l. 32) and may contain any number of wells from about 50 to 10,000. Preferably, the number of wells are a multiple of 96 and may include the commonly used number of 1536 wells. Materials of construction are disclosed in column 10, lines 5-20 and columns 15-16. The frame may be made of “any material, such as polymers, such as polystyrene or cycloolefins, or other materials, such as glass or quartz (col. 10, l. 13)”. The base is described as “typically polymeric...However, other materials can be used to make the frame or bottom of the multi-well platform, such as glass or quartz. The frame and bottom can be made of the same or different materials and the bottom can comprise polystyrene or another material (col. 15, l. 30)”. Continuing in column 15: “For example the frame and bottom can be made as one discrete piece. Alternatively, the frame can be one discrete piece, and the bottom can be a second discrete piece which are combined to form a multiwell platform....For example, the frame can be made of a polymer, and the bottom made of polystyrene, glass, or quartz (col. 15, l. 45). As to the dimensions of the base and wells, Pham recites diameters for the wells of about 0.2 to 50 millimeters (col. 13, l. 4) and a thickness for the base of about 10-1000 micrometers (col. 13, l. 60). Pham teaches wells coating for both suppression and encouraging material binding in the wells in column 15, lines 3-29. Finally, as to the limitation of “the distance between the center of the outer vessels and an edge of the glass base ranges from 4 to 11 mm”, the Examiner contends that simply selecting a well-to-well spacing of 0.5 mm for a 96x16 1536 well plate in

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the standard footprint (all features disclosed by Pham) would provide the distance claimed by applicant for the distance between the outer vessels and edge of the base.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pham et al. (6,063,338) contains the same teachings as cited in the other Pham reference ('780). Oldenburg et al. (6,027,695) and Turner et al. (6,340,589) teach microplates with large numbers (up to 14,500) of miniaturized wells in a plastic body. Manns et al. (5,457,527) recites a 96 well microplate made of a plastic body forming the wells and a transparent plastic base. Lyman et al. (5,084,246) shows a standard 96-well multiwell test plate comprised of wells in a frame and a lid. Sanadi (6,258,325) displays a multiwell plate made of several stackable layers. Stevens et al. (5,817,509), Hafeman et al. (6,074,614) and Rudigier et al. (5,738,825) show multiwell plates with a border around the wells.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K. Handy whose telephone number is (703)-305-0211. The examiner can normally be reached on Monday-Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached on (703)-308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703)-772-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0661.

A handwritten signature in cursive script, reading "Arlen Soderquist".

ARLEN SODERQUIST
PRIMARY EXAMINER

dkh

June 12, 2002